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AMENDMENT TO H.R. 3
OFFERED BY MR. RICHARDSON

Bill no.:	H.R. 3
Amendment no.:	5
Date offered:	5/17
Disposition:	Passed

Page 470, add after line 8 the following:

TITLE IX--PERISHABLE PRODUCTS.

SEC. 901. INVESTIGATIONS AND REPORTS CONCERNING PERISHABLE
PRODUCTS INDUSTRY.

(a) REQUESTS FOR INVESTIGATIONS AND REPORTS.--If, upon request from a domestic industry producing a perishable product, the Secretary of Commerce determines that there is a reasonable indication that such industry is vulnerable to serious and irreparable injury as a result of surges in quantities of a like or directly competitive product in interstate commerce, the Secretary shall investigate and monitor such surges for a period not to exceed 180 days. The Secretary, on the basis of the Secretary's investigation, shall make recommendations to the President to take such appropriate action as may be necessary to assure that such surges will not recur.

(b) DEFINITION OF PERISHABLE PRODUCT.--For purposes of subsection (a), the term "perishable product" includes--

- (1) all articles that are treated as perishable products under section 404(e) of the Trade and Tariff Act of 1984 (19 U.S.C. 2112 note), and

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(2) live animals provided for in items 100.40 through 100.55, inclusive, of the Tariff Schedules of the United States.

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AMENDMENT TO H.R. 3
OFFERED BY MR. FLORIO

Page 470, add after line 8 the following:

1 TITLE IX--ENERGY AND COMMERCE PROVISIONS

2 SEC. 901. TRADE IN DIGITAL AUDIO RECORDERS.

3 (a) FINDINGS.--The Congress finds that international
4 trade in digital audio recorders without appropriate
5 protection from unauthorized copying by such recorders of
6 creative works will harm the competitiveness of American
7 industry.

8 (b) DEFINITIONS.--As used in this section:

9 (1) The term ``commerce`` means commerce among the
10 several States of the United States or with foreign
11 nations, or in any territory or possession of the United
12 States or in the District of Columbia, or among the
13 territories or possessions or between any territory,
14 possession, State, foreign nation, or between the
15 District of Columbia and any State, territory,
16 possession, or foreign nation.

17 (2) The term ``copy-code scanner`` is an electronic
18 circuit or comparable system of circuitry (A) which is
19 built into the recording mechanism of an audio recording
20 device, (B) which, if removed, bypassed, or deactivated,

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1 would render inoperative the recording capability of the
2 audio recording device, (C) which continually detects,
3 within the audio frequency range of three thousand five
4 hundred to four thousand one hundred hertz, a notch in an
5 encoded phonorecord, and (D) which, upon detecting a
6 notch, prevents the audio recording device from recording
7 the sounds embodied in the encoded phonorecord by causing
8 the recording mechanism of the device to stop recording
9 for at least twenty-five seconds.

10 (3) The term ``digital audio recording device`` is
11 any machine or device, now known or hereafter developed,
12 which can be used for making audio recordings in a
13 digital format. The term ``digital audio recording
14 device`` includes any machine or device which
15 incorporates a digital audio recording device as part
16 thereof.

17 (4) The term ``encoded phonorecord`` is a phonorecord
18 which has a notch within the audio frequency range of
19 three thousand seven hundred to three thousand nine
20 hundred hertz.

21 (5) The term ``notch`` is an absence of sound
22 resulting from the removal of sound signals at a certain
23 frequency.

24 (6) The term ``phonorecord`` is a material object in
25 which sounds, other than those accompanying a motion

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1 picture or other audiovisual work, are fixed by any
2 method now known or later developed, and from which the
3 sounds can be preceived, reproduced, or otherwise
4 communicated, either directly or with the aid of a
5 machine or device. The term ``phonorecord`` includes the
6 material object in whch the sounds are first fixed.

7 (c) TRADE IN DIGITAL AUDIO RECORDING DEVICES.--

8 (1) No person shall manufacture, assemble, or offer
9 for sale, resale, lease, or distribution in commerce--

10 (A) any digital audio recording device which does
11 not contain a copy-code scanner, or

12 (B) any device, product, or service, the primary
13 purpose or effect of which is to bypass, remove, or
14 deactivate a copy-code scanner,

15 if any patent, technical know-how, or proprietary rights
16 necessary for manufacturing a copy-code scanner have been
17 made available by means of a royalty-free license.

18 (2) No person shall bypass, remove, or deactivate a
19 copy-code scanner.

20 (d) REMEDIES.--

21 (1) Any person aggrieved by any violation of
22 subsection (c), or any appropriate officer or agency of
23 the United States, may bring a civil action in any
24 appropriate district court of the United States. Such
25 court may (A) grant temporary and final injunctions on

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1 such terms as it may deem reasonable to prevent or
2 restrain violations of subsection (c), (B) grant such
3 other equitable relief as it may deem reasonable, and (C)
4 direct the recovery of full costs, including reasonable
5 attorneys' fees, by an aggrieved party, other than the
6 United States or an officer or agency thereof, who
7 prevails.

8 (2) An aggrieved party shall be entitled to recover
9 damages in accordance with established principles of law.

10 (3) At any time while an action is pending, the court
11 may order the impounding, on such terms as it may deem
12 reasonable, or any digital audio recording device which
13 does not contain a copy-code scanner; or any device or
14 product the primary purpose or effect of which is to
15 bypass or deactivate a copy-code scanner, that is in the
16 custody or control of the alleged violator.

17 (4) As part of a final judgment or decree, the court
18 may order the destruction, modification, or other
19 disposition of any digital audio recording device which
20 does not contain a copy-code scanner, or any device or
21 product the primary purpose or effect of which is to
22 bypass or deactivate a copy-code scanner, that is in the
23 custody or control of the violator.

24 (5) Any person who knowingly, willfully, and for
25 purposes of direct or indirect commercial advantage or

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1 private financial gain violates subsection (c)(1) shall
2 be subject to criminal prosecution and may be fined, or
3 imprisoned for not more than 2 years, or both. Fines
4 shall be computed at 5 times the retail value of the
5 devices, products, or services involved or \$50,000,
6 whichever is greater.

7 (e) EXEMPTIONS.--The Secretary of Commerce may issue such
8 rules and regulations as may be necessary to exempt from the
9 requirements of subsection (c) certain digital audio
10 recording devices used exclusively for legitimate business
11 purposes.

12 (f) EFFECTIVE DATE.--On and after one year after the date
13 of the enactment of this Act, this section shall be
14 considered to have terminated and to be of no effect.

15 SEC. 902. COMPETITIVENESS IMPACT STATEMENTS.

16 (a) DEPARTMENT AND AGENCY ACTIONS.--

17 (1) Except as otherwise provided in this subsection,
18 the head of each department and agency of the Federal
19 Government shall, before taking any major action that may
20 affect international trade and competitiveness--

21 (A) study the potential impact such action will
22 have on--

23 (i) the international trade of the United
24 States, and

25 (ii) the ability of United States firms

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engaged in the manufacture, sale, distribution or
providing of goods or services to compete in
foreign or domestic markets,

(B) prepare a detailed statement on such study,
and

(C) make such statement available to the public.

(2) In the case of emergency action, the statement
required under paragraph (1)(B) may be published
immediately after the actions affecting international
competitiveness is taken.

(3) This subsection shall not apply with respect to
actions taken under the Trading With The Enemy Act.

(4) This subsection shall not apply to actions that
are the subject of a report or consultation required
under the Export Administration Act, but such a report or
consultation shall include a statement on the impact such
action will have on--

(A) the international trade of the United States,
and

(B) the ability of United States firms
engaged in the manufacture, sale, distribution or
providing of goods or services to compete in
foreign or domestic markets,

(b) LEGISLATION.--The head of each department and agency
of the Federal Government shall include with any reports,

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1 statements of position, or recommendations made to the
2 Congress regarding proposed legislation, a detailed statement
3 of the impact of such legislation on--

4 (1) the international trade of the United States, and

5 (2) the ability of United States firms engaged in the
6 manufacture, sale, distribution, or providing of goods or
7 services to compete in foreign or domestic markets,

8 SEC. 903. NATIONAL TRADE DATA BANK.

9 (a) TRADE DATA FUNCTIONS.--

10 (1) The Secretary of Commerce shall--

11 (A) establish and maintain a National Trade Data
12 Bank,

13 (B) provide for the analysis of information in
14 the National Trade Data Bank,

15 (C) disseminate such information in a timely
16 manner to business firms in the private sector that
17 are engaged in export related activities, and

18 (D) coordinate the gathering and dissemination of
19 commercial information relating to international
20 trade by the Federal Government.

21 (2) The National Trade Data Bank which is required to
22 be established under paragraph (1) may consist of
23 economic and trade data collected by the Federal
24 Government, including--

25 (A) information on each foreign country such as--

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(i) the general economic conditions and demographics,

(ii) common business practices,

(iii) tariff and non-tariff trade barriers,

and

(iv) other laws and regulations regarding imports and licensing,

(B) information on specific industrial sectors within each foreign country such as--

(i) size of the market,

(ii) distribution of products,

(iii) competition,

(iv) applicable laws, regulations, specifications, and standards,

(v) consultants,

(vi) appropriate government officials, and

(vii) trade associations,

(C) information on specific business opportunities in each foreign country,

(D) general import and export data for the United States and for each foreign country,

(E) industry specific import and export data for each foreign country,

(F) product and service specific import and export data for the United States,

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1 (G) market penetration ratios for imports to the
2 United States and country of origin for imports to
3 the United States,

4 (H) rank ordered national destinations for
5 exports of the United States,

6 (I) exchange rates of all foreign currencies,

7 (J) market research, including industry and
8 demographic trends for each foreign country with
9 lists of marketing contacts and lists of foreign
10 firms,

11 (K) product and process patent, copyright,
12 trademark, and mask work (within the meaning of
13 section 901 of title 17, United States Code)
14 information for each nation for at least the 2 most
15 recent years,

16 (L) general labor market information,

17 (M) internationally comparable wage rates,

18 (N) foreign and domestic--

19 (i) unemployment rates,

20 (ii) availability of skilled and professional
21 workers,

22 (iii) hiring and firing restrictions, and

23 (iv) labor productivity trends,

24 (O) comparative international tax rate
25 information,

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1 (P) export financing information, including the
2 availability of funds for United States exporters and
3 foreign competitors,

4 (Q) information regarding the trade actions of
5 foreign governments,

6 (R) information concerning capital markets,
7 interest rates, and the cost and availability of
8 capital,

9 (S) National Input and Output Tables compiled by
10 the Department of Commerce for the United States and
11 other nations, and

12 (T) any other information that the Secretary of
13 Commerce determines to be useful in carrying out the
14 purposes of this section.

15 (3) The National Trade Data Bank which is required to
16 be established under paragraph (1) shall--

17 (A) be designed to utilize state-of-the-art data
18 processing and retrieval equipment in monitoring,
19 organizing, analyzing, and disseminating the
20 information described in paragraph (2),

21 (B) use the most effective and meaningful means
22 of organizing and making such information available
23 to--

24 (i) United States business firms,

25 (ii) United States workers,

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(iii) United States industry associations,
(iv) United States agricultural interests,
(v) State and local economic development
agencies, and

(vi) other interested United States persons
who could benefit from such information, and

(C) be of such quality and in such form as to
assist coordinated trade strategies for the United
States.

(4) The National Trade Data Bank established pursuant
to paragraph (1) shall--

(A) collect and disseminate--

(i) information on service sector economic
activity that is at least as complete and timely
as information on economic activity in the
merchandise sector, and

(ii) a broad base of monthly information on
the service sector of the economy, and

(B) provide--

(i) a new benchmark survey of unaffiliated
service transactions, including--

(I) banking services,

(II) computer software services,

(III) brokerage services,

(IV) transportation services,

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(V) travel services,

(VI) engineering services, and

(VII) construction services, and

(ii) an index of leading indicators which includes measurement of service sector activity in direct proportion to the contribution of the service sector to the gross national product of the United States.

(5) The National Trade Data Bank established pursuant to paragraph (1) shall not include any information--

(A) which is collected by the Federal Government in connection with any investigation, and

(B) the disclosure of which to the public is prohibited under any other provision of law.

(6) In carrying out this section, the Secretary of Commerce shall consult with--

(A) advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), and

(B) other representatives of the private sector.

(b) COOPERATION.--Each Federal department and agency shall cooperate with the Secretary of Commerce by making information available for assimilation into the National Trade Data Bank.

(c) REPORTS.--By no later than December 31 of each calendar year, the Secretary of Commerce shall submit a

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1 report to Congress--

2 (A) assessing the current quality, comprehensiveness,
3 and public and private accessibility of trade data,

4 (B) describing actions taken pursuant to this
5 section, particularly--

6 (i) actions taken during the 3-month period
7 beginning on the date of enactment of this Act to
8 provide the new benchmark survey described in
9 subsection (a)(4)(B)(i), and

10 (ii) action taken during the 1-year period
11 beginning on the date of enactment of this Act to
12 provide the information on services described in
13 subparagraphs (A) and (B)(ii) of subsection (a)(4).

14 (C) describing actions planned to be taken pursuant
15 to this section,

16 (D) recommending executive and legislative actions
17 which would ensure that United States citizens and firms
18 obtain access to the data banks of foreign countries that
19 is similar to the access provided foreign citizens and
20 firms to the National Trade Data Bank established
21 pursuant to subsection (a)(1), and

22 (E) recommending other legislative actions which
23 further the purposes of this section.''.
24

25 SEC. 904. FOREIGN COMMERCE DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.--The Secretary of Commerce

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1 (hereinafter in this Act referred to as the ``Secretary``)
2 shall establish, using existing personnel, in the Department
3 of Commerce the Foreign Commerce Development Program which
4 shall, on a continuous basis--

5 (1) undertake an analysis of Federal, State, and
6 local regulations of both foreign industries and United
7 States industries and their actual or potential effect on
8 interstate and foreign commerce,

9 (2) evaluate and propose responses to the trade
10 barriers identified in the report pursuant to section 181
11 of the Trade Act of 1974,

12 (3) compile a comprehensive inventory of acts,
13 policies, and practices of foreign countries which may
14 constitute barriers to (or other distortions of)
15 international trade or which may limit the access of
16 United States industries to such foreign countries, which
17 inventory shall include, but not be limited to--

18 (A) a description of each act, policy, or
19 practice and of its operation in the particular
20 country,

21 (B) an identification of the goods, services, or
22 investment affected,

23 (C) an identification of the legal basis for such
24 act, policy, or practice in the particular country,
25 and

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1 (D) an assessment of the impact, or potential
2 effects, of such acts, policies, or practices on
3 United States industries,

4 (4) identify and analyze all programs of foreign
5 governments that direct resources to a particular foreign
6 industry or industries to create international
7 competitive advantage, and evaluate the impact, or
8 potential effects, of such programs on the international
9 competitiveness of United States industries, and such
10 identification and analysis shall include a description
11 of the nature and extent of such intervention,
12 including--

13 (A) direct or indirect subsidies to a foreign
14 industry or industries,

15 (B) special protection of the foreign home
16 market, whether through formal government action,
17 including tariffs, quotas, licensing requirements, or
18 investment restrictions, or informal government
19 action, including preferential procurement,
20 administrative guidance to the industry, or waiver of
21 generally applicable antitrust laws,

22 (C) support of research and development programs,

23 (D) programs designed to encourage the provision
24 of capital to a particular enterprise or group of
25 enterprises or industry or group of industries,

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1 (E) the promotion, support, or tolerance of, an
2 industry cartel or cartels,

3 (F) the provision of conditional loans where the
4 conditions for repayment are not likely to occur
5 within twelve months of the date of the initiation of
6 the investigation,

7 (G) the provision of capital, loans or loan
8 guarantees which would not otherwise be available
9 from commercial sources,

10 (H) information concerning the likelihood of
11 goods or services of foreign industries being sold in
12 the United States at less than fair value as a result
13 of such acts, policies, or practices, and

14 (I) any information needed to complete the report
15 described in subsection (c)(1).

16 (5) The Secretary shall undertake a comprehensive and
17 continuing evaluation of the potential competitiveness of
18 United States goods and services in markets within the
19 United States (hereinafter referred to as the ``domestic
20 markets``), based upon--

21 (A) an inventory of those domestic market
22 conditions, opportunities, structures and factors
23 which offer potential for growth and development,

24 (B) an analysis of those factors which
25 significantly affect the competitiveness of those

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1 domestic industries that have a high potential for
2 growth, including applicable Federal and State
3 policies and practices (particularly macroeconomic,
4 regulatory, and sectoral policies) and the conditions
5 in, and the structure of, the markets that supply, or
6 distribute the products or services of, such
7 industries, and

8 (C) an evaluation, on a country-by-country basis,
9 of foreign plans for the penetration of domestic
10 markets.

11 (b) STRATEGIES AND POLICIES.--On the basis of the
12 analyses, studies, information, and inventory described in
13 the preceding subsection, the Secretary shall formulate
14 strategies and policies designed to increase the
15 competitiveness of United States industries in interstate and
16 foreign commerce. The Secretary shall take such action as may
17 be necessary or appropriate consistent with such powers as
18 are granted to the Secretary under law to implement the trade
19 and competitiveness strategies and other recommendations
20 developed under this section and section 905.

21 (c) REPORTS. On an annual basis commencing with 1988, the
22 Secretary shall prepare a report (which shall be submitted to
23 the Energy and Commerce Committee of the House of
24 Representatives and the Commerce, Science, and Transportation
25 Committee of the Senate and to the President no later than

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1 120 days after the close of the period covered by the report)
2 containing--

3 (1) a summary of the analyses and studies described
4 in paragraphs (1), (2), and (5) of subsection (a) and the
5 inventory described in paragraphs (3) of such subsection,

6 (2) a description of all strategies and policies
7 developed pursuant to subsection (b) and recommendations
8 for legislation, based on such analyses and information,
9 designed to increase the international competitiveness of
10 United States industries in interstate and foreign
11 commerce, to respond to the trade practices of foreign
12 countries, and to ensure full reciprocity for United
13 States products, services, and investment in foreign
14 markets,

15 (3) assessments of the effects of foreign industrial
16 and trade policies on specific United States industries,
17 trade, and employment, and an evaluation of actual or
18 foreseeable economic and technological developments, in
19 the United States and abroad, which have affected or will
20 affect the competitive position of United States industry
21 or of particular United States industry sectors,

22 (4) an identification and description, with
23 particularity, of actual or foreseeable developments in
24 the United States and abroad which--

25 (A) create a significant likelihood of a

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1 competitive challenge to, or of substantial
2 dislocation in, an established United States
3 industry,

4 (B) present significant opportunities for United
5 States industries to compete in new geographical
6 markets or product markets or to expand their
7 position in established markets, or

8 (C) create a significant risk that United States
9 industries will be unable to compete successfully in
10 significant future markets, and

11 (5) a specification, with particularity, of the
12 industry sectors affected by the developments described
13 in clause (i).

14 (d) PROGRAM PRIORITIES.--In implementing the program
15 described in subsection (a), the Secretary shall give
16 priority to those foreign countries and product sectors in
17 which the United States has significant economic and
18 commercial interests. The Secretary shall consult with
19 appropriate Federal agencies and private sector advisory
20 groups in determining such priorities.

21 (e) COLLECTION.--The Secretary may collect such
22 information, and seek the advice of such persons representing
23 United States industries, labor, consumers, and members of
24 the academic community, as the Secretary considers necessary
25 to carry out this section.

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1 SEC. 905. RELATED INITIATIVES TO SUPPORT THE PROGRAM OF
2 ENHANCED COMPETITIVENESS.

3 In connection with the functions specified in section
4 904, the Secretary shall carry out the following actions in
5 order to achieve the purposes of this section and section
6 904:

7 (1) ASSISTANCE REGARDING RESEARCH AND
8 DEVELOPMENT.--After taking into account all relevant
9 information obtained in carrying out section 904(a) (1)
10 and (2), and other available appropriate data, regarding
11 the research and development needs (including
12 commercialization of research and development) of United
13 States industries, the Secretary shall prepare, and
14 thereafter periodically revise--

15 (A) an inventory of the research and development
16 that (i) is relevant to the maintenance or expansion
17 of the competitiveness of United States industry, and
18 (ii) is being, or is planned to be, undertaken by
19 United States producers, and

20 (B) a listing of those new areas of research and
21 development not covered under subparagraph (A) that
22 should be engaged in if such competitiveness is to be
23 maintained or expanded.

24 (2) IMPROVEMENTS IN TRAINING AND EDUCATION.--On the
25 basis of the most recent information derived under

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1 section 904, and from other available appropriate data
2 regarding the labor needs of United States industries,
3 the Secretary shall periodically consult with the
4 Secretary of Labor, the Secretary of Education, and the
5 heads of appropriate State agencies regarding actions
6 that may be taken within their respective jurisdictions
7 to improve the quality and availability of labor market
8 information, training (including teacher training),
9 retraining , and education, in those skills and
10 disciplines which will be required by United States
11 industries for purposes of maintaining or expanding their
12 competitiveness.

13 (3) REDUCTION AND ELIMINATION OF REGULATORY AND
14 BUREAUCRATIC OBSTACLES.--The Secretary shall undertake
15 periodic consultation with appropriate Federal and State
16 officials and representatives of United States industry
17 and business for purposes of identifying those
18 regulations, policies, and procedures that inhibit or
19 delay the development, commercialization, or marketing of
20 goods or services and shall, giving due consideration to
21 the various purposes of such regulations, policies and
22 procedures, make recommendations to the Congress, and to
23 the appropriate Federal and State agencies, regarding
24 those statutory and administrative changes that would, if
25 implemented, eliminate or reduce such obstacles.

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1 (4) COMPETITION.--The Secretary shall consult with
2 the Department of Justice and the Federal Trade
3 Commission for purposes of--

4 (A) ensuring appropriate emphasis in antitrust
5 enforcement to encourage the development through
6 market forces of those industries considered by the
7 Secretary to be important to the maintenance or
8 expansion of United States competitiveness, and

9 (B) considering means by which the Department of
10 Justice and the Federal Trade Commission could
11 expedite current procedures under which the
12 Department of Justice and the Federal Trade
13 Commission provide advice as to whether business
14 proposals regarding goods, services, projects
15 (including joint research and development ventures),
16 or practices, that are considered by the Secretary to
17 be important to the maintenance or expansion of
18 United States competitiveness, comply with the laws
19 relating to antitrust and consumer protection that
20 are administered by the Department of Justice and the
21 Federal Trade Commission. The Secretary shall
22 develop, in consultation with these and other Federal
23 agencies concerned with consumer protection, programs
24 to enhance the confidence of United States consumers
25 in domestically-produced products and the competitive

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1 position of such products in world markets.

2 (5) FEDERAL PROCUREMENT.--The Secretary shall
3 periodically review Federal procurement policies and
4 practices and make recommendations for such changes in
5 those policies and practices as may be appropriate for
6 purposes of assisting in the maintenance and expansion of
7 United States competitiveness.

8 SEC. 906. ORGANIZATION OF TRADE AND COMPETITIVENESS

9 FUNCTIONS.

10 Within 180 days of the date of the enactment of this Act
11 the President shall report to the Congress recommendations
12 for legislation to establish an agency in the Executive
13 Branch to promote the competitiveness of United States
14 industries in domestic and foreign commerce and to perform
15 trade functions under existing law and the functions under
16 sections 903, 904, and 905. Such an agency shall be headed by
17 an individual with the same status as the head of an
18 Executive department.

19 SEC. 907. NATIONAL SECURITY AND ESSENTIAL COMMERCE.

20 (a) INVESTIGATIONS BY SECRETARY OF COMMERCE.--Upon
21 request of the head of any department or agency, upon
22 application of an interested party, or upon the motion of the
23 Secretary of Commerce (hereinafter in this section referred
24 to as the "Secretary"), the Secretary shall immediately
25 make an appropriate investigation to determine the effects on

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1 the national security and essential commerce of mergers,
2 acquisitions, takeovers, and other efforts to gain control of
3 persons engaged in interstate commerce in the United States
4 by or with foreign persons. In the course of the
5 investigation, the Secretary shall seek information and
6 advice from, and shall consult with, the Secretary of Defense
7 and other appropriate officers of the United States. The
8 Secretary shall, if it is appropriate and after reasonable
9 notice, hold public hearings or otherwise afford interested
10 parties an opportunity to present information and advice
11 relevant to such investigation. The Secretary shall report--
12 (1) the findings of the investigation under this
13 subsection with respect to the effect of the control of
14 such persons by foreign persons upon the national
15 security and essential commerce, and
16 (2) based on such findings, the recommendation of the
17 Secretary for action or inaction under this section to
18 the President within 45 days after receiving an
19 application from an interested party or otherwise
20 beginning an investigation under this subsection.
21 If the Secretary finds that the control of such persons by
22 foreign persons threatens to impair the national security and
23 essential commerce, the Secretary shall so advise the
24 President. The President shall take such action, and for such
25 time, as the President deems appropriate to restrict,

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1 suspend, or prohibit any effort made by a foreign citizen to
2 merge, acquire, take over, or otherwise gain control of a
3 person engaged in interstate commerce in the United States so
4 that such control will not threaten to impair the national
5 security and essential commerce unless the President
6 determines that such effort by foreign citizens do not
7 threaten to impair the national security and essential
8 commerce.

9 (b) DOMESTIC PRODUCTION FOR NATIONAL DEFENSE.--For the
10 purposes of this section, the Secretary and the President
11 shall, in the light of the requirements of national security
12 and essential commerce and without excluding other relevant
13 factors, give consideration to domestic production needed for
14 projected national defense requirements, the capacity of
15 domestic industries to meet such requirements, existing and
16 anticipated availabilities of the human resources, products,
17 raw materials, and other supplies and services essential to
18 the national defense and essential commerce, the requirements
19 of growth of such industries and such supplies and services
20 including the investment, exploration, and development
21 necessary to assure such growth, and the control of such
22 industries by foreign citizens as it affects such industries
23 and the capacity of the United States to meet requirements of
24 national security and essential commerce. In the
25 administration of this section, the Secretary and the

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1 President shall further recognize the close relation of the
2 economic welfare of the Nation to our national security and
3 essential commerce, and shall take into consideration the
4 impact of foreign control on the economic welfare of
5 individual domestic industries, and any substantial
6 unemployment, decrease in revenues of government, loss of
7 skills or investment, or other serious effects resulting from
8 the control of such industries by foreign citizens shall be
9 considered, without excluding other factors, in determining
10 whether such weakening of our internal economy may impair the
11 national security and essential commerce.

12 SEC. 908. ACTION UNDER SECTION 301(c) OF THE TRADE ACT OF
13 1974.

14 The President shall immediately take all appropriate and
15 feasible action under section 301(c) of the Trade Act of
16 1974--

17 (1) remedy and prevent violations of the agreement
18 entered into on September 2, 1986, between the United
19 States and Japan concerning trade in semiconductors,

20 (2) to serve as an incentive for compliance with such
21 agreement,

22 (3) to compensate the United States for the harm
23 suffered on account of noncompliance by Japan with such
24 agreement, and

25 (4) to prevent further injury to the United States

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1 from such noncompliance.

2 SEC. 909. DISCRIMINATION.

3 Section 301(e)(5) of the Trade Act of 1974 (19 U.S.C.
4 2411(e)(5) is amended by inserting before the period ``or
5 which denies access to foreign technology, research, or
6 development``.

7 SEC. 910. MARKING OF CERTAIN ITEMS IN INTERSTATE COMMERCE.

8 Items imported under item 740.05 of the Tariff Schedules
9 of the United States may not be sold or distributed in
10 interstate commerce unless such items have an indelible and
11 permanent marking identifying the country of origin.

12 SEC. 911. BILATERAL TRADE BETWEEN THE UNITED STATES AND
13 MEXICO.

14 The Secretary of Commerce shall prepare and submit to the
15 Congress, within 1 year after the date of the enactment of
16 this Act, a report on bilateral trade issues between the
17 United States and Mexico. In the report, the Secretary
18 shall--

19 (1) identify and analyze the tariff and nontariff
20 barriers that inhibit trade between the United States and
21 Mexico,

22 (2) recommend unilateral and bilateral actions that
23 may be taken by the Governments of the United States and
24 Mexico to reduce or eliminate such trade barriers,
25 including--

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1 (A) the stimulation of joint investment and
2 coproduction by United States and Mexico joint
3 ventures in those areas in both countries that are
4 adjacent to the international border and the
5 provision of duty-free treatment to articles produced
6 by such ventures, and

7 (B) the eventual establishment of a free trade
8 area between the United States and Mexico, and

9 (3) identify and analyze the potential effects on
10 bilateral trade of a United States-Mexico development
11 bank the purpose of which would be to encourage and
12 coordinate economic development between the two
13 countries.

14 SEC. 912. INVESTIGATION OF MARKET DISTORTING PRACTICES

15 AFFECTING INTERSTATE COMMERCE IN URANIUM.

16 (a) COMMERCE IN URANIUM.--The Secretary of Commerce shall
17 investigate foreign trade practices resulting in market
18 distortions in interstate and foreign commerce in uranium. In
19 conducting the investigation, the Secretary of Commerce shall
20 take comment and evidence from interested parties, may send
21 questionnaires to foreign producers or other entities and
22 take appropriate account of failures to respond, and shall
23 rely on the best available evidence concerning foreign trade
24 practices resulting in market distortions. On the basis of
25 the investigation, the Secretary shall issue a preliminary

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1 report within 100 days of the date of enactment of this
2 section. The Secretary shall afford an additional 30 days for
3 comment on the preliminary report and shall issue a final
4 report no later than 60 days after issuance of the
5 preliminary report.

6 (b) REPORTS.--The preliminary and final reports required
7 by subsection (a) shall--

8 (1) describe any foreign trade practices and policies
9 resulting in market distortions affecting interstate and
10 foreign commerce and shall provide the basis for that
11 description,

12 (2) specifically identify any evidence of
13 differential pricing, market exclusion, contract review,
14 product or service tie-ins, or similar practices having
15 actual or potential adverse impact on the United States
16 uranium mining and milling industry, and

17 (3) recommend appropriate remedial action by the
18 Secretary of Energy, the Secretary of Commerce, or the
19 President.

20 Within 30 days of issuance of the final report, the
21 President, on the basis of the final report and the existing
22 determinations of the Secretary of Energy that the domestic
23 uranium industry is not viable, shall determine an action or
24 combination of actions to rectify any impact of market
25 distorting foreign trade practices affecting interstate and

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1 foreign commerce in uranium.

2 (c) SUMMARY.--A summary of the preliminary report and the
3 final report required by subsection (a) shall be published in
4 the Federal Register. The selection of any action by the
5 President shall also be published in the Federal Register.

6 (d) MONITORING.--The Secretary of Energy, with the
7 cooperation as appropriate of the Secretary of Commerce and
8 the Secretary of the Treasury, shall monitor and publish on
9 at least a semi-annual basis statistics providing the amount
10 of uranium in any form imported into the United States for
11 domestic consumption or other use. The statistics shall
12 specifically identify the country of origin of the imported
13 uranium. The Secretary shall not take into account fictitious
14 alterations in the country of origin of the uranium for
15 purposes of compiling such statistics.

16 (e) CONSTRUCTION.--Nothing in this section shall be
17 construed to modify any obligation under the Atomic Energy
18 Act of 1954 on the part of the Secretary of Energy to assure
19 the maintenance of a viable domestic uranium industry and
20 nothing in this section shall be construed to modify any
21 remedy otherwise available to the domestic uranium industry
22 under existing law.

23 SEC. 913. INVESTIGATION OF CERTAIN BARRIERS PERTAINING TO
24 TRADE AND SERVICES.

25 The United States Trade Representative shall immediately

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1 initiate an investigation under section 302 of the Trade Act
2 of 1974 regarding the acts, policies, and practices of the
3 Government of Japan and of entities which are owned,
4 financed, or otherwise controlled by the Government of Japan
5 with respect to barriers in Japan to the offering by United
6 States persons of architectural, engineering, construction,
7 and consulting services in such country.

8 SEC. 914. EFFECT OF IMPORTS ON CRUDE OIL PRODUCTION AND
9 REFINING CAPACITY IN THE UNITED STATES.

10 The Secretary of Energy shall send to the United States
11 Trade Representative the results of the study conducted under
12 section 3102 of the Omnibus Budget Reconciliation Act of
13 1986. Within 180 days of the receipt of the results of such
14 study, the United States Trade Representative shall report to
15 the President and the Congress recommendations for actions
16 which may be appropriate to address any impact of imports of
17 crude oil and petroleum products on domestic crude oil
18 exploration and production and the domestic petroleum
19 refining capacity, including the imposition of oil import
20 fees, the deregulation of domestic natural gas prices, the
21 deregulation of the transportation of crude oil by pipeline,
22 and the repeal of the fuel economy standards under the Motor
23 Vehicle Information and Cost Savings Act.

24 SEC. 915. INVESTMENTS.

25 Within 6 months of the date of the enactment of this Act,

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1 the Secretary of Commerce shall--

2 (1) review the investment restrictions placed on
3 citizens of the United States and persons which have
4 their principal office in the United States by foreign
5 countries, and

6 (2) report to Congress recommendations for
7 legislation to impose on citizens of or persons which
8 have their principal offices in a country which, as
9 determined by the Secretary, restricts the investments
10 which may be made in that country by citizens of the
11 United States or by persons which have their principal
12 office in the United States the same investment
13 restrictions.

14 SEC. 916. REPORT ON SECRETARY OF COMERCE PROCEDURES.

15 Within 30 days of the date of the enactment of this Act
16 the Secretary of Commerce shall report to the Congress on the
17 legal basis for the trade impact of and alternative
18 approaches to--

19 (1) the lack of any provision for deducting a
20 reasonable profit earned by related party importers in
21 calculating ``Exporter's Sales Price'', and

22 (2) the deduction of and amount of indirect selling
23 expenses included in the home market from the home market
24 price, when calculating ``Foreign Market Value'',
25 in connection with actions and investigations by the

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1 Secretary.

In the table of contents, insert on page 10 after the item relating to title VIII the following:

TITLE IX--ENERGY AND COMMERCE PROVISIONS

- Sec. 901. Trade in digital audio recorders.
- Sec. 902. Competitiveness impact statements.
- Sec. 903. National Trade Data Bank.
- Sec. 904. Foreign Commerce Development Program.
- Sec. 905. Related initiatives to support the program of enhanced competitiveness.
- Sec. 906. Organization of trade and competitiveness functions.
- Sec. 907. National security and essential commerce.
- Sec. 908. Action under section 301(c) of the Trade Act of 1974.
- Sec. 909. Discrimination.
- Sec. 910. Marking of certain items in interstate commerce.
- Sec. 911. Bilateral trade between the United States and Mexico.
- Sec. 912. Investigation of market distorting practices affecting interstate commerce in uranium.
- Sec. 913. Investigation of certain barriers pertaining to trade and services.
- Sec. 914. Effect of imports on crude oil production and refining capacity in the United States.
- Sec. 915. Investments.
- Sec. 916. Report on Secretary of Commerce procedures.

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AMENDMENT TO H.R. 3

Page 416, after line 2, insert the following new section
(and redesignate the succeeding sections and conform the
table of contents accordingly):

1 SEC. 702. FINANCIAL SERVICES STUDY.

2 (a) STUDY REQUIRED.--(1) The Secretary of Commerce, in
3 consultation and coordination with the United States Trade
4 Representative and the Securities and Exchange Commission,
5 shall conduct an investigation to determine--

6 (A) the foreign countries from which foreign
7 financial services institutions have entered, directly or
8 indirectly, into the business of providing financial
9 services in the United States,

10 (B) the kinds of financial services which are being
11 offered, and

12 (C) the extent to which United States financial
13 services institutions are permitted to offer the same
14 services in each of those foreign countries.

15 (2) The Secretary of Commerce shall transmit a report on
16 the results of the investigation under paragraph (1) within
17 120 days after the date of enactment of this Act to the
18 President, the Congress, the United States Trade
19 Representative, and the Securities and Exchange Commission.

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1 (b) DEFINITIONS.--As used in this section--

2 (1) The term ``foreign country`` means a foreign
3 country or a political subdivision, a dependent
4 territory, or a possession of a foreign country, and
5 includes an association of two or more foreign countries,
6 political subdivisions, dependent territories, or
7 possessions of foreign countries forming a customs union
8 outside the United States.

9 (2) The term ``foreign financial services
10 institution`` means--

11 (A) any legal entity the headquarters, or the
12 primary control or operations, of which are located
13 or based in a foreign country,

14 (B) any citizen or national of a foreign country,
15 or

16 (C) any department, agency, or other
17 government-operated or government-controlled
18 organization of a foreign country,
19 that is directly or indirectly engaged, in whole or part,
20 in business as a financial services institution.

21 (3) The term ``United States financial services
22 institution`` mean a financial services institution--

23 (A) the headquarters, and the primary control and
24 operations of which, are located in the United
25 States, and

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1 (B) that is not owned or controlled, directly or
2 indirectly, by any company whose headquarters, or
3 primary control or operations, are located outside
4 the United States.

5 (4) The term ``financial services institution``
6 means--

7 (A) a broker, dealer, underwriter, clearing
8 agency, transfer agent, or information processor with
9 respect to securities, including government and
10 municipal securities,

11 (B) an investment company, investment manager,
12 investment adviser, indenture trustee, or any
13 depository institution, insurance company, or other
14 organization operating as a fiduciary, trustee,
15 underwriter, or other financial service provider, and

16 (C) any other entity providing financial
17 services.

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AMENDMENT TO H.R. 3

Page 213, after line 5 insert the following:

1 SEC. 212. FEDERAL COMMUNICATIONS COMMISSION.

2 (a) CLARIFICATION OF FACTORS FCC REQUIRED TO

3 CONSIDER.--The Communications Act of 1934 is amended by
4 adding at the end of title II (relating to common carriers)
5 the following new section:

6 "CONSIDERATION OF INTERNATIONAL TRADE FACTORS

7 "SEC. 225. The Congress finds that international
8 telecommunications trade has significant impact with regard
9 to telecommunications policymaking in the United States. It
10 is therefore the policy of the United States that the
11 Commission, in order to fulfill its duties and obligation to
12 make decisions on the basis of the public interest,
13 convenience, and necessity under this title should, in making
14 its determinations, take into account, where appropriate, the
15 impact of international trade on the ability of the United
16 States telecommunications industry to be competitive in the
17 international marketplace and on the ability of the American
18 public to obtain, on a continuing basis, quality services and
19 equipment."

20 (b) REPORT TO CONGRESS.--On or before November 1, 1987,
21 the Federal Communications Commission (hereafter referred to

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1 in this section as the ``Commission``) shall report to the
2 Congress its findings and conclusions based on the Notice of
3 Inquiry and Proposed Rulemaking, CC Docket No. 86-494,
4 adopted on December 23, 1986. If further rulemaking action is
5 considered appropriate based on such inquiry, the Commission
6 shall commence a rulemaking based on such findings and
7 conclusions not later than December 1, 1987.

8 (c) TELECOMMUNICATIONS COMPETITIVENESS IN THE UNITED
9 STATES.--

10 (1)(A) The Secretary of Commerce, acting with the
11 Federal Communications Commission and the National
12 Telecommunications and Information Administration, shall
13 conduct a study of the competitiveness of the United
14 States domestic telecommunications industry and the
15 effects of foreign telecommunications policies and
16 practices thereon in order to assist the Congress and the
17 President in determining what actions might be necessary
18 to preserve the competitiveness of the American
19 telecommunications industry.

20 (B) The study provided for by subparagraph (A) shall
21 be carried out within available appropriations.

22 (2)(A) Within 45 days of the date of the enactment of
23 this Act, the Secretary of Commerce and the Chairman of
24 the Federal Communications Commission, or their
25 designees, shall begin consultation and coordination on

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1 the study under paragraph (1)(A).

2 (B) The Commission shall provide notice and
3 reasonable opportunity for the public comment within 90
4 days of the date of the enactment of this Act.

5 (3) The Commission shall, within 120 days of the date
6 of the issuance of public notice of the study, transmit
7 to the Congress and the President a copy of the findings
8 and recommendations. Such findings and recommendations
9 shall be referred to the Committee on Energy and Commerce
10 of the House of Representatives and appropriate
11 authorization committees of the Senate.

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AMENDMENT TO H.R. 3

Page 196, beginning in line 24 strike out ``Committee on Ways of Means of the House of Representatives and the Committee on Finance of the Senate'' and insert in lieu thereof ``Congress''.

Page 203, beginning in line 12 strike out ``Committee on Ways and Means and the Committee on Finance'' and insert in lieu thereof ``appropriate committees''.

Page 204, beginning in line 2 strike out ``House Committee on Ways and Means and the Senate Committee on Finance'' and insert in lieu thereof ``appropriate committees of the House and Senate''.

Page 208, beginning in line 22 strike out ``House Committee on Ways and Means and the Senate Committee on Finance'' and insert in lieu thereof ``appropriate committees of the House and Senate''.

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AMENDMENT TO H.R. 3

1 SEC. . IMPACT OF NATIONAL DEFENSE EXPENDITURES ON
2 INTERNATIONAL COMPETITIVENESS.

(a) FINDINGS -- The Congress finds that --

the ability of U.S. industries to compete is adversely affected by the cost of capital which is affected by many factors, including the budget deficit and money spent on world defense.

(b) SENSE OF THE CONGRESS -- It is the sense of the Congress that the President should evaluate the impact on U.S. competitiveness of foreign countries' expenditures on defense, including Japan's expenditure of 1 percent of its GNP on defense as compared to the U.S. expenditures of 6 percent of its GNP.